

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JERRY E. LOGAN,

Plaintiff,

v.

HANY A. EMAM, et al.,

Defendants.

Case No. 2:16-cv-35

**CHIEF JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Terence P. Kemp**

OPINION AND ORDER

This matter is before the Court on Plaintiff Jerry E. Logan's Objection [ECF No. 36] to the United States Magistrate Judge's Report and Recommendation [ECF No. 33]. Specifically, Plaintiff objects to the Magistrate Judge's recommended denial of his Motion for Default Judgment [ECF No. 30].

If a party objects within the allotted time to a report and recommendation, 28 U.S.C. § 636(b)(1)(C) provides that a district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *See also* Fed. R. Civ. P. 72(b)(3); *United States v. Curtis*, 237 F.3d 598, 602–03 (6th Cir. 2001). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(3).

Plaintiff moved for default judgment based on Defendants' alleged failure to respond to his Motion to Correct the Records [ECF No. 23], a motion in which Plaintiff challenged the accuracy of some of the medical records produced in this case. (Mot. for Default J. at 1; Mot. to Correct the Records at 1.) Plaintiff contends that his Objection to the recommended denial of his

Motion for Default Judgment is premised upon “newly found evidence.” (Obj. at 1.) Plaintiff, however, does not identify this newly found evidence. (*See id.*) Nor does Plaintiff explain how new evidence could alter the calculus that informed the Magistrate Judge’s recommendation. As the Magistrate Judge explained, Defendants did respond to Plaintiff’s Motion to Correct the Records. (Report & Recommendation at 3; *see* Defs.’ Mem. Contra at 1 [ECF No. 25].) But even if Defendants had not responded, their failure to respond would not warrant the entry of default, much less the entry of default judgment. *See* Fed. R. Civ. P. 55. Accordingly, Plaintiff’s Objection [ECF No. 36] is **OVERRULED**, and the Magistrate Judge’s Report and Recommendation [ECF No. 33] is **ADOPTED AND AFFIRMED**.

IT IS SO ORDERED.

6-6-2017
DATE



EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE